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**Remarks by CPCS Chief Counsel William J. Leahy,
Joint House and Senate Ways and Means Committee Hearing
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The three highest priority requests in the FY05 Committee for Public Counsel Services (CPCS) budget proposal are:

I. Adequate Attorney Compensation

Both the 2,500 private lawyers who accept CPCS assignments and the 134 salaried CPCS staff counsel are compensated far below national norms for publicly-funded legal representation. Hourly rates for private counsel are the third-lowest in the nation, and have not been significantly increased in almost twenty years. Staff counsel salaries are the lowest in Massachusetts state government.

These rates have been challenged as violating the right to the effective assistance of counsel in a county-based lawsuit, and may soon be subjected to statewide litigation. More immediately, the departure of over 200 experienced private counsel due to inadequate rates, and of close to 20 staff counsel due to 3 straight years of budget cuts, has brought our counsel assignment system to crisis in Western Massachusetts, and to the brink of crisis statewide. Action and funding is needed now to avert this crisis. It is also warranted as a matter of basic fairness and appreciation for the difficult, Constitution and law-enforcing representation these attorneys provide.

- The anticipated additional cost of funding the CPCS authorized hourly rates in FY05 is \$86.5 million.
- The anticipated additional cost of funding the \$60 per-hour rate authorized under legislation (H.4321) approved by the Judiciary Committee is \$58.3 million.
- The anticipated additional cost of bringing CPCS staff attorney salaries into line with the salaries of staff attorneys employed throughout the Executive Branch is \$1.4 million.
- The anticipated additional cost of a 3% increase for underpaid CPCS and Bar Advocate Program support staff is \$105,682.

II. Counsel Assignment Reform: Staff Counsel for Children and Families in Crisis

Children and families who are in crisis, and who come before the courts in Care and Protection or Termination of Parental Rights cases, or CHINS (Children in Need of Supervision) cases, or delinquency cases, ought to have access to the same mix of full-time, salaried CPCS staff attorneys and assigned private counsel, as do those persons accused of committing major felonies. Where such a mixed system exists--in Salem and Springfield for Care and Protection cases, and in Roxbury for delinquency cases--it has worked very efficiently, and has improved the quality of our representation.

CPCS has proposed an essentially cost-neutral expansion of its Children and Family Law and its Youth Advocacy Program in order to provide equality of treatment for our Care and Protection and delinquency clients. This change is particularly necessary now, in order to address the counsel shortages which have frustrated the operations of the Juvenile Court during FY03 and FY04.

In addition, the ever-increasing cost of maintaining an almost exclusively private counsel assignment system in Care and Protection cases requires this change. We need a small staff presence in local courts in order to assure the provision of counsel, and improve the quality of the representation we provide.

III. Practical Cost Reduction Actions

A. Verify Indigency: Oregon has done it for years; so can Massachusetts. The key is to verify indigency claims in real time, before counsel costs are incurred.

- Potential FY05 savings = \$7.5 million

B. Require Annual Reassessment of Indigency

- Potential FY05 Savings = \$1 million

C. Amend Civil Infraction Statute to authorize judges to treat lesser misdemeanors as civil infractions.

- Potential FY05 Savings = \$2.5 million

D. Restrict Drastic "Reach-Back" of Sex Offender Registry

- Potential FY05 Savings (CPCS only) = \$175,000

E. Modify "Mandatory" Drug Sentences

- Potential FY05 Savings (CPCS only) = \$925,000

Total Potential CPCS Savings, FY05 = \$12,100,000